



DEPARTMENT OF TRANSPORTATION

MATERIALS TRANSPORTATION BUREAU

WASHINGTON, D.C. 20590

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[14 CFR Part 103]

[46 CFR Parts 64 and 146]

[49 CFR Parts 171—179]

[Docket No. HM-134; Notice No. 76-2]

HAZARDOUS MATERIALS REGULATIONS

Notice of Proposed Rule Making

The Materials Transportation Bureau of the Department of Transportation proposes to amend certain of the hazardous materials regulations for which it has responsibility to expressly reflect a reissuance of those regulations under the authority of the Hazardous Materials Transportation Act (Title I of Pub. L. 93-633). To accomplish that purpose the Bureau proposes to revise the authority citations and, where necessary, the applicability of the hazardous materials regulations in 14 CFR Part 103, 46 CFR Parts 64 and 146, and 49 CFR Parts 171-179.

On January 3, 1975, the Hazardous Materials Transportation Act (HMTA) was signed into law. It was the declared policy of Congress in enacting the HMTA "... to improve the regulatory and enforcement authority of the Secretary of Transportation to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce."

Some of the provisions of the HMTA that more clearly reflect the declared policy accomplish the following:

1. Broaden the definition of commerce to include transportation which affects interstate transportation;
2. Provide for a broader application of hazardous materials regulations in certain geographical locations;
3. Provide for Federal pre-emption of inconsistent state and local regulations and law;
4. Extend the Secretary's authority to impose civil penalties to violations committed in the rail and highway modes;
5. Remove statutory restrictions on the Secretary's authority to centralize Department of Transportation regulatory activities relating to the safe transportation of hazardous materials by the various modes; and
6. Extend the Secretary's regulatory authority to cover the manufacturers of packages and containers to be used in the transportation of hazardous materials.

Congress recognized that prior to January 3, 1975, much had already been done with respect to providing for the safe transportation of hazardous materials but was convinced of the necessity to bring those previous actions into conformity with the purposes and provisions of the HMTA. Section 114(b) (2) of the HMTA reads in part, "The Secretary shall take all steps necessary to bring orders, determinations, rules, and regulations into conformity with the purposes and provisions of this title as soon as practicable . . ."

This proposal to revise the citations of authority and, where necessary, the applicability of certain hazardous materials regulations in Titles 14, 46, and 49 of the Code of Federal Regulations, to expressly reflect a reissuance of those regulations under the authority of the HMTA is one step in meeting that Congressional mandate.

Although the Bureau considers reissuance of the hazardous materials regulations under the authority of the HMTA to be mandatory and therefore leaving the Bureau without discretion in the matter, the Bureau wants the affected public to be aware of the pending reissuance and desires that interested persons submit written views and comments with respect to matters which they regard as being affected by that reissuance.

Comments by interested persons should refer to the docket number and be submitted in duplicate to the Section of Dockets, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. All comments received before the close of business on April 1, 1976, will be considered, and will be available for examination in Room 6213 Trans Point Building, 2100 Second Street, SW., Washington, D.C. both before and after the closing date. Comments received after the closing date and too late for consideration will be treated as suggestions for future rule making.

(49 U.S.C. 1801-1811; 49 CFR 1.53(e)).

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ALAN I. ROBERTS,
Director, Office of
Hazardous Materials Operations.
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